## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

SAMSON EUGENE JAMES,	)
Plaintiff,	)
v.	) CIVIL ACTION NO. 5:15-CV-35 (MTT)
Sheriff WILLIAM MASSEE, et al.,	
Defendants.	
	J

## <u>ORDER</u>

Before the Court is the Recommendation of Magistrate Judge Stephen Hyles on Defendants Reeves and Neff's motion for summary judgment (Doc. 55) and Defendant Jones's motion to dismiss (Doc. 69). Doc. 73. The Magistrate Judge recommends granting the motion to dismiss the already-terminated Defendant Jones as a formality. *Id.* at 5. The Magistrate Judge also recommends treating the motion for summary judgment's argument that the Plaintiff failed to exhaust his administrative remedies argument as a motion to dismiss and granting the motion on those grounds; the Magistrate Judge does not address Defendants Reeves and Neff's other grounds for summary judgment. *Id.* at 2-5. The Plaintiff has not objected to the Recommendation.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> The Magistrate Judge also ordered the Plaintiff to respond to the Defendants' motion for summary judgment, warning him that "THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO DEFENDANTS' MOTION." Doc. 56 at 1. The Plaintiff did not respond. When the deadline for objections to the Recommendation passed, the Court noted that the Plaintiff's address had changed numerous times, some mail to the Plaintiff from the Court had been returned, and a letter from the Plaintiff raised the possibility that he was not abreast of the details of his case. Doc. 76. The Court also noted that, aside from the Plaintiff's confused letter, the Court had no reason to doubt that the Plaintiff received the motion for summary judgment (Doc. 55), the order for response (Doc. 56), and the Recommendation (Doc. 73). *Id.* at 1. Nevertheless, the Court gave the Plaintiff the opportunity to set forth his objections to the Recommendation, if any, within 14 days, along with any reasons justifying his failure to timely object. *Id.* at 2. The Plaintiff did not respond.

The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, Defendant Jones's motion to dismiss (Doc. 69) is **GRANTED**. Defendant Reeves and Neff's motion for summary judgment (Doc. 55) is **GRANTED** in part and **DISMISSED** as moot in part, such that the Court finds that the Plaintiff has failed to exhaust his administrative remedies but does not decide whether summary judgment is appropriate on other grounds. The Plaintiff's complaint is **DISMISSED** for failure to exhaust his administrative remedies.

SO ORDERED, this 14th day of March, 2017.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT